



**Elder Law Project**

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To: Senate Committee on Health and Human Services  
From: Michael Benvenuto, Director, Elder Law Project, Vermont Legal Aid, Inc.  
Re: H.171 Negligent Neglect

During my testimony on Wednesday, April 19, I was asked for Vermont Legal Aid's position on the issue regarding the inclusion of negligence in H.171 as it applies to abuse and neglect of a vulnerable adult. At that time, I did not take a position on the issue of negligence. However, since that time I have reviewed this issue further with DAIL and consulted with Ruby Baker, Community of Vermont Elders and Lindsey Owen, Disability Rights Vermont about the inclusion of "negligent" in the definition of "neglect".

Therefore, on behalf of Vermont Legal Aid, the Community of Vermont Elders and Disability Rights Vermont, we support keeping "negligent" in the definition of neglect as in the House passed version of H.171 and as suggested by DAIL. It is critically important that neglect include the failure to provide care as a result of negligence. During APS committee file reviews, we have reviewed examples of cases in which the caregiver was alleged to have neglected the vulnerable adult, including situations involving negligence. It seems intuitive that the concept of "neglect" would include situations in which that neglect was a result of negligence, and that the defenses such as "I forgot" or "I didn't mean to do that" would not apply to neglect.

As a policy matter, we should be protecting our most vulnerable, and that includes from negligent acts or omissions. In a recent Vermont poll, the question was asked about whether people with disabilities have the same quality of life as people without disabilities, and the majority response was "no." That is unacceptable, and we cannot create legislation that minimizes the harm that is at stake or that happens in our communities. We should not codify legislation that makes it okay to be negligent and cause harm, particularly for those who have the responsibility

to provide care, and not be held accountable when it comes to our most vulnerable Vermonters.

Our request is to keep the definition of Neglect as included in H.171 as passed by the House:

**H.171 Definition of Neglect (page 9)**

(7)(21)(A) “Neglect” means purposeful, knowing, reckless, or negligent failure or omission by a caregiver that has resulted in, or could be expected to result in, physical or psychological harm, including a failure or omission to:

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